

Denial or Termination of Assistance

A. GENERAL POLICY

The OCHA may deny or terminate assistance for the following reasons:

- Families who owe rent or other amounts to the OCHA or to another Public Housing Agency (PHA) in connection with Section 8 or public housing assistance under the United States Housing Act of 1937;
- A Family (as a previous participant in the Section 8 program) or participant has not reimbursed the OCHA or another housing authority for any amounts paid to the owner under a contract for rent or other amounts owed by the family under the lease or for a vacated unit;
- Families who are guilty of program abuse or fraud in any federal housing assistance program (this presupposes that the program abuse or fraud is substantiated and that a Repayment Agreement was not entered into or was violated);
- Families who have violated one of their family obligations or responsibilities for the rental assistance programs.

B. FAMILY OBLIGATIONS AND RESPONSIBILITIES

At the time of the initial eligibility interview, Voucher issuance, and annual reexamination, the head of household receives a statement of family obligations and responsibilities. Examples of the primary obligations and responsibilities are listed below:

The family must:

1. Supply such certification, release, information, or other documentation as the OCHA or HUD determines to be necessary, including the submission of Social Security numbers and verifying documentation, the submission of signed consent forms for the obtaining of wage and claim information from the State Wage Information Collection Agency, and verification or inquiries regarding the tenant's identity, household members, employment and income, assets, allowances or preferences claimed, criminal records, and residency. These organizations are to include, but are not limited to: Financial Institutions; Employment Agencies; Veteran's Administration; Court Clerks; Utility Companies; Medical Institutions and Practitioners; Workman's Compensation Payers; Public and Private Retirement Systems; Law Enforcement Agencies; Credit Providers; Educational Institutions; Public and Private; Pre-Schools, Elementary, Secondary, Academic, Intermediate, High Schools, Continuation High Schools, Junior Colleges, Universities and Trade Schools and any documentation required for an annual or interim reexamination of family income and composition.
2. Allow the OCHA to inspect the dwelling unit at reasonable times and after reasonable notice.
3. Cooperate with District Attorney staff at all times in Housing Authority investigations.
4. Notify the OCHA in writing before vacating the dwelling unit.
5. Use the dwelling unit solely for residence by the family, and as the family's principal place of residence.
6. Abide by all terms of the signed rental agreement.

The family must not:

1. Own or have any interest in the dwelling unit (other than in a manufactured home assisted under 24 CFR subpart F. If the owner is a cooperative, the family may be a member of the cooperative.).
2. Commit any fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.

3. Receive housing assistance under the Section 8 Rental Assistance Housing Program while occupying, or receiving housing assistance under any federal housing assistance program (including any Section 8 program).
4. Sublease or assign the lease or transfer the unit.
5. Engage in drug-related criminal activity or violent criminal activity or other criminal activity within the prior five years that threatens the health, safety or right to peaceful enjoyment of other persons residing in the immediate vicinity of the dwelling unit.
6. Abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the dwelling unit.
7. No person, who is subject to a lifetime registration requirement under the state sex offender registration program, shall be eligible for Section 8 Program assistance as an applicant/participant or as a member of any such household.
8. Engage in drug-related criminal activity or violent criminal activity.
9. Engage in, or threaten, abusive or violent behavior toward an OCHA employee.

The OCHA, when determining whether to deny or terminate assistance because of a household member's action or failure to act, may consider all relevant circumstances such as the seriousness of the matter, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The OCHA may impose as a condition of assistance or of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in an assisted dwelling.

The OCHA will terminate the assistance for participants whose total tenant payment is sufficient to pay the full gross rent and six months has elapsed since the OCHA made the last HAP payment.

Drug-related or Violent Criminal Activity:

Drug-related criminal activity means:

1. Current usage by an existing, or potential, household member of a controlled substance (as defined in the Controlled Substance Act). Current usage shall mean that the existing, or potential, household member used a controlled substance within one year of:
 - The applicant's initial interview;
 - The participant's request to add a family member; or
 - The date of the notice of termination to the participant.

If a member of the applicant family has been evicted from federally assisted housing for drug-related criminal activity, current usage shall mean that the termination of the household member for such a reason occurred within three years of the initial interview.

2. A pattern of usage by a household member of a controlled substance which interferes with the health, safety, or right to peaceful enjoyment of other persons residing in the immediate vicinity of the dwelling unit.
3. Any conviction of a household member for the manufacture or production of methamphetamine on the premises of federally assisted housing. NOTE: federal law requires the OCHA to deny an applicant, or to immediately terminate a participant family, from the Section 8 Program if a household member is found to have violated this definition of drug-related criminal activity.

4. The manufacture, sale or distribution or the possession with intent to manufacture, sell or distribute, a controlled substance (as defined in the Controlled Substance Act). For purposes of this violation, it shall be construed to mean that the existing, or potential, household member engaged in such activity within five years of:
 - The initial interview;
 - The date that a participant requests to add the family member; or
 - The date of the notice of termination to the participant.

In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the OCHA shall consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. The OCHA may require the applicant or participant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Violent Criminal Activity:

Violent criminal activity shall mean any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another. Any such activity must have occurred within five years of:

- The initial interview;
- The date that a participant requests to add the family member; or
- The date of the notice of termination to the participant.

Basis for Determination:

In determining whether to deny or terminate assistance based on drug-related activity or violent criminal activity, the OCHA shall make a determination based on the preponderance of the evidence that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

Definition of Preponderance of Evidence:

Preponderance of evidence, applicable to participants, is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Credible Evidence:

Credible evidence may be provided by the District Attorney's office or other law enforcement or other governmental agency investigation. Testimony from neighbors, when combined with other credible evidence could be used toward determining whether a preponderance of evidence existed.

Situations which would add to preponderance of evidence include, but are not limited to, drug raids, drugs found in the dwelling unit, evidence which is tied to the activity, arrest warrant issued, conviction, etc.

Other Conditions and Procedures for Termination of Assistance:

If a HAP Contract termination is necessary, or tenant assistance is terminated for the following reasons: (1) the tenant requests to go off the program (in writing) or (2) assistance is denied in accordance with the termination of assistance procedures (Notice of Informal Hearing required), tenants and owners need to be notified of this termination of assistance.

If the OCHA refuses to issue a Housing Choice Voucher, the tenant must be notified in writing and offered an opportunity for an Informal Hearing (and hold the hearing if requested) prior to the termination of assistance.

If the OCHA refuses to issue a new Housing Choice Voucher because the tenant owes the OCHA money for special claims paid to owners, the tenant may elect to continue in the same unit under assistance as long as payments are paid monthly.

In any case where the OCHA decides to terminate assistance to the family, the OCHA must give both the family and the owner a thirty-day written termination notice which states:

1. The reasons for the termination;*
2. The effective date of the termination;
3. The family's right to request an informal hearing to be held before termination of assistance; and
4. The family's responsibility to pay the full rent to the owner if the family remains in occupancy after the date of the termination.

*If the OCHA is terminating assistance for criminal activity as shown by a criminal record, the OCHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record. If the family requests an informal hearing, the OCHA must give them an opportunity at that hearing to dispute the accuracy and relevance of the record.

C. \$0 ASSISTANCE TENANTS

As stated above, \$0 assistance tenants may remain on the program for six months from the effective date they went to \$0 assistance.

If the family's total tenant payment is sufficient to pay the full gross rent and six months has elapsed since the OCHA's last Housing Assistance Payment (HAP) payment was made, the family's assistance is terminated.

There are no expiration dates on rental agreements. There is no new Contract at recertification time unless the owner offers the tenant a new rental agreement.

However, if the owner wants a rent increase during this six months and the rent increase would cause the OCHA to resume HAP payments, or if at reexamination time, the tenant had a loss of income and there would be a HAP payment, the payments would be resumed.

If payments are resumed, there would be an interim adjustment and an amendment would be sent out, listing the new amounts.

When the six months has been reached, and the tenant is still at \$0 assistance, the owner should be notified of the termination of the HAP Contract, in accordance with their HAP Contract. The termination of assistance payments is after the six months period has been reached, not the annual reexamination date.

The OCHA also must perform all of the duties and responsibilities normally required, such as reexaminations and inspections.

The tenant will be notified of their rights to remain on the program at \$0 assistance for six months.

Also, if the tenant wants to move to another unit during this period, the OCHA would not execute a new HAP Contract for the new unit at \$0 assistance. If there would be assistance (because of a higher rent, for example), the OCHA could execute a new HAP Contract.

If the tenant moves to another unit at a higher rent, requiring the OCHA to pay a portion of the Contract Rent, the \$0 assistance provisions are no longer in effect, because a HAP is being paid on the new unit.